

[Sri T. Purushotham] [31st August 1950]

after the fulfilment of the conditions of mortgage by him. Some provision must be made to meet such cases so that justice may be done to the affected persons."

* THE HON. SRI K. MADHAVA MENON :—" Mr. Deputy Chairman, Sir, my hon. Friend, Mr. Bhima Rao said that though he supported the Motion he was afraid there might be another loophole in the Bill which, as I have understood him, is this—that though a mortgage may appear as a simple mortgage at first, after a few years, it may be converted into a usufructuary mortgage and that it will not come within the purview of the Bill. I am unable to agree with him. If it is a case of a simple mortgage converted into a usufructuary mortgage, then it will fall within the definition of a renewal of a document and the nature of the document may be changed. So in the case of usufructuary mortgages the provisions in the Act relating to them will apply, viz., the provisions of Section 9 (A) of the Act as will be amended if this Bill is passed into law. In the case of simple mortgages the other provision, viz., reduction of interest to five per cent as long as the mortgages remain simple ones, will apply. So, I do not see any difficulty as is mentioned by my hon. Friend Mr. Bhima Rao. Anyhow, I may say that I shall examine his suggestion also if a contingency is likely to arise and take all possible steps to meet the situation."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950 (L.A. Bill No. 23 of 1950), as passed by the Assembly, be taken into consideration '."

The motion was carried.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950, be passed '."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950, be passed '."

The motion was carried.

(5) THE MADRAS CITY MUNICIPAL (AMENDMENT) BILL, 1950
(L.A. BILL NO. 24 OF 1950).

THE HON. SRI K. CHANDRAMOULI :—" Mr. Deputy Chairman, Sir, I move—

' that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration."

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“ In the Statement of Objects and Reasons two points have been made quite clear and I think I need not dilate upon them at this juncture. Hitherto, the Corporation of Madras has been levying upon tram cars a half yearly tax of Rs. 100 per car. Considering the financial position of the Company with reference to their profits and also in view of the fact that the Government have permitted a rise in tramcar fares, the Government, at the instance of the Corporation, have decided to raise the tax from Rs. 100 to a maximum of Rs. 900 out of which, it is proposed that four-ninths of the amount will go to the Government. The Bill before the House is intended to achieve this object and I commend it to the House for consideration.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration ’.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Mr. Deputy Chairman, Sir, I wish to ask the Hon. the Law Minister to tell this House under which Article of the Constitution he thinks this taxation measure is *intra vires*.”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, the amendment is to the Madras City Municipal Act which permits the licensing of transport by the Corporation. Local Administration is within the province of the State Legislature to legislate upon.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, if it were merely a measure which gives powers to the Corporation to increase its tax on tramcars, it will be *intra vires*. But this particular measure seeks to have a State tax also imposed, four-ninths of the amount having to be credited compulsorily to the Government. Now, in regard to all taxation measures, it has been provided that particular authorities ought to be responsible for the levying of taxes. You will find in List II—State List—of the Constitution the taxation powers conferred on this State. Items 45 to 63 indicate the subjects and none of which will apply to this particular taxation measure. Secondly, Sir, you will find that in item 57 the State has got the power to impose a taxation on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars. This is a power which the State has got to levy a wholesale tax on tramcars. You will find in Part XII that the question of joint taxation or sharing of taxation proceeds between the Centre or the Union and the States is very clearly defined. You will find the manner of distribution of revenues between the Union and the States in Articles 268, 269 and 270. Article 270 for instance, says—

‘ (i) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided . . . ’

So, there is no provision in the Constitution which says that the Corporation or municipality can levy a tax and have it distributed

[Dr. A. Lakshmanaswami Mudaliyar] [31st August 1950]

between the State and the Corporation of the municipality concerned. Inasmuch as that provision is not there, I feel it is *ultra vires* of the powers of the Legislature to pass a Bill seeking under the City Municipal Act to impose a condition which, in essence, comes to two measures of taxation, a Local taxation and a State taxation. I am not now concerned with the merits of the Bill which I shall take up at a later stage. Item 5 of List II—State List gives powers to the Corporation and local bodies to raise taxes. If the Corporation is given power to raise the tax, it is all right. But to require the Corporation to compulsorily pay a certain amount as a tax to the State is not what is envisaged in the Constitution. This is a very vital point and I think it requires very careful examination at the hands of the Government. The City Municipal Act of 1919 came into force long before the Government of India Act and there is a great reason to believe that this was not what was contemplated. More than that the Constitution of India, 1950, clearly states the duties and powers of the Union as well as the States and I feel considerable hesitation in coming to the conclusion that that power vests in the State or is within the competency of the State."

12-45 P.M. * THE HON. SRI K. MADHAVA MENON :—" Sir, item 5 of List II—State List in the Seventh Schedule to the Constitution is—

'5. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.'

Therefore this comes within the State List. We are only amending section 116 of the Madras City Municipal Act which gives the Corporation power to tax tramcars, carriages and vehicles. It is not a tax levied by the Government. It is a tax levied by the Corporation. The Government are only saying that 4/9ths of the proceeds of this tax should be credited to the Government. It is an adjustment between the Government and the Corporation. There is no question of any *ultra vires* coming in here. Even if there is any question of *ultra vires*, it has to be decided by the Courts and it cannot be raised here as a point of order. This is only a question of an amendment of a Local Administration Act, the Madras City Municipal Act and it comes under item 5 of the State List. It is entirely within the powers of this Legislature to pass this Bill. Whether it offends the Constitution or not, is a matter to be decided by the Courts. It is perfectly within the competence of this Legislature to pass this Bill. The question of *ultra vires* is not to be decided here."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, I referred to item 5 of the State List in my remarks and said that the State has got power to legislate with regard to 'Local Government, that is to say, the constitution and powers of municipal corporations . . .'. But I find it hard to believe that under

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this power the Government can ask the Corporation compulsorily to pay the Government 4/9ths of the tax that it collects. Section 116 of the City Municipal Act says—

‘ (1) If the Council by a resolution determines that a tax on carriages and animals shall be levied, the Commissioner shall levy the said tax half-yearly on carriages and animals

(2) The rates of the tax shall be determined by the Council provided always that they shall not exceed the maximum laid down in

But this compulsory contribution to the State does not enable the Corporation to determine the rate of the tax to be levied, because another party steps in and says that the Corporation should pay in so much of the tax that is levied. It is not open to the Corporation to levy such a rate of tax that it considered reasonable. Apart from that, it offends against the very propriety of Local Administration Act in my opinion.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, may I invite your attention to item 57 of the State List in the Seventh Schedule to the Constitution? It runs as follows :—

‘ 57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcar subject to the provisions of entry 35 of List III. ’

It is a State subject and the Government can tax tramcars or permit the Corporation to tax tramcars and take a portion of the tax so levied. There is a specific provision here.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ According to item 57, the State Government can tax tramcars themselves and give a subsidy to the Corporation. But it is not open to the Government to ask the Corporation to tax the tramcars and take a portion of the proceeds for their own purpose. I find no specific provision here for such a distribution of the tax between a local body and the State. That is my point. I leave it at that.”

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I have to point out that even now the Corporation has a right to vary the rates of the tax within the maximum limit prescribed. We are not taking away that right. The Corporation has a right to determine the rate of tax without exceeding the maximum limit.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ In determining the rate of tax to be levied, it has got to bear in mind the extraneous consideration which is not quite consistent with the powers vested in the Corporation.”

* SRI R. SURYANARAYANA RAO :—“ Sir, I am afraid the Government want to hit at two birds at one shot. That is why they have got into a mess. (The Hon. Sri K. Madhava Menon : ‘ We have not got into a mess. ’) As Dr. Lakshmanaswami Mudaliyar pointed out, this is a measure dealing with the powers of a local body. To the extent to which the local body may be permitted to tax tramcars, by all means give that power. But if the Government want a share of the proceeds of the tax, or if they want to tax tramcars directly, let them introduce another Bill. As the Hon. Mr. Madhava Menon said, under item 57 of the State

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List the State Government has got the power to tax tramcars. But why mix up the duties of the Corporation with those of the Government? By all means, the Government want money and we know it and we will come to it later on. But let them not make the Corporation responsible for making money for them. That is all I have got to say and that is what Dr. Lakshmanaswami Mudaliyar has stated. Give power to the Corporation to impose its own taxation. If the Government want to levy further taxation, let them bring in another Bill under item 57 of the State List in the Seventh Schedule, under which they can levy 'taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars, etc.' The Government are now taxing buses under the Motor Vehicles Taxation Act and they can go on adding to it. All that we say is: Let them not mix up these things. I think that is constitutionally wrong. I do not know, Sir, why our legal pandits in the Secretariat suggest all kinds of things which raise many doubts. Someone later on may take it to High Court where the poor judges have to sit for days and say that it is *ultra vires* of the powers of the State Government. Let the Government give the power to the Corporation to levy a tax on tram cars subject to a certain maximum limit. If the Government want 4/9ths of the proceeds of the tax, instead of increasing the maximum, let them bring a direct taxation Bill. That is all that we have to suggest at this stage, apart from going into the merits of the case at a later stage."

* THE HON. SRI K. MADHAVA MENON :—" Sir, we have not got into a mess. The hon. Member is unnecessarily raising a doubt where there is nothing. If Mr. Suryanarayana Rao's interpretation of Mr. Lakshmanaswami Mudaliyar's objection is correct, it amounts to this: The Government can authorize the Corporation to levy this tax by amending Schedule IV of the City Municipal Act which is an Act of the State Legislature. Clause 2 (ii) of this amending Bill says that the tax on tramcars shall be increased from Rs. 100 to Rs. 900. I hope there is no objection to that. Everybody says that it is correct. There is nothing wrong."

SRI R. SURYANARAYANA RAO :—" Legally."

* THE HON. SRI K. MADHAVA MENON :—" In amending Schedule IV to the City Municipal Act and enabling the Corporation to raise the tax on tramcars from Rs. 100 to Rs. 900, I am glad to learn that we are not getting into a mess. But I do not feel as Mr. Suryanarayana Rao thinks that the judges of the High Court would feel that as a result of this legislation they would have to spend some time in vain and so on. For whatever the judges do they are spending their time usefully.

" Then the other question is whether it is proper to ask the Corporation to credit 4/9ths of the proceeds of the tax to the Government. Sir, the Government have got the power to tax tramcars and there is nothing wrong in delegating that power of collecting taxes to the Corporation, asking them to take 5/9ths of

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the proceeds of the tax for themselves and credit 4/9ths of the proceeds to the Government. Practically it is the Government that takes the power and then it delegates it to the Corporation. After all, what is the danger that is likely to result from this course? Somebody may say that it is wrong for the Government to ask the Corporation to credit 4/9ths of the proceeds to them. Then the result will be that the entire proceeds of the tax will be credited to the Corporation. That is not a situation of which we need be afraid. Instead of the Government getting 4/9ths of the proceeds of the tax, that also will go to the Corporation. There will be no other danger."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"The whole Act may be declared *ultra vires*."

* THE HON. SRI K. MADHAVA MENON:—"Not at all. We are only amending Schedule IV to the City Municipal Act and increasing the rate of tax from Rs. 100 to Rs. 900. The only contingency is that the Government may not get a share of the proceeds of the tax. We are not very much worried about that. That will not happen. It is only a matter of assertion of opinion on this side or that side. There is nothing wrong whether we tax the tramcars ourselves when we have got the power to tax them or we ask the Corporation to collect this tax and pay a portion of the proceeds to the Government. Even if what we do is wrong, what will happen is, the Corporation will get the entire amount."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"I am afraid we would be setting a precedent which might later on prove disastrous, with regard to the relations between local bodies and the Government. Have we got the power to set such a precedent? It is not on the merits of the tax that I raise this issue at this stage. I have deliberately stated that so far as I can see, under the Constitution, there is no power for the Government to ask the Corporation to levy this tax and credit a portion of the proceeds to the Government. If the Corporation Council have a responsibility to their own clientele, it cannot be discharged by a measure of this kind, because the raising of this taxation is not absolutely of their own volition. If offends against the very propriety of local self-Government if the Government should decide what the Corporation should do."

DEPUTY CHAIRMAN:—"I think this is a matter which has gone before the Corporation and they have already been consulted in the matter. I do not think that is a regular point of order; I take it that it is only intended just to bring to the notice of the House the difficulties which are likely to arise if this legislation is questioned in another place. As the House has been apprised of this difficulty, I think, we may go ahead with the motion before the House. It is for the hon. Members to vote as they please in this matter."

[Deputy Chairman] [31st August 1950]

“ The motion is—

‘ that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration ’.”

The motion was put and carried.

* SRI H. M. JAGANNATHAM :—“ Mr. Deputy Chairman, under Rule 129 of the Council Rules, I beg to present a petition on behalf of the Madras Electric Tramways, Limited, signed by its Agent, Mr. L. D. B. Elphick for the consideration of hon. Members. The petitioner prays that the increase in tax may be postponed for the time being as the Company has been working at a heavy loss for the last two years and may be taken up when there is a return of prosperous times and the Company is able to meet the increased taxation. I formally present the petition to the Council.”

(The petition was handed over to the Secretary to the Council.)

DEPUTY CHAIRMAN :—“ Under Rule 131 of the Madras Legislative Council Rules—

‘ Every member offering to present a petition to the Council shall confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it and of the material allegations contained in it and to the reading of the prayer of the petition.’

“ The petition is in conformity with the rule. The Secretary will make an abstract of it and give it out to the Council.”

SRI B. BHIMA RAO :—“ The House should know what the complaint is. The substance of the complaint may be read out to the House, Sir.”

DEPUTY CHAIRMAN :—“ The prayer of the petition may be read out.”

1 p.m. THE HON. SRI B. GOPALA REDDI :—“ The hon. Member has stated that this Bill may be taken up at a later stage when the company is in a position to bear the tax, that it is now running at a loss, and all that; that is the prayer; I think, that is the operative portion of the petition.”

THE HON. SRI K. MADHAVA MENON :—“ We have only to record it and nothing more.”

DEPUTY CHAIRMAN :—“ If the House wants it, I think there is nothing wrong in the abstract being read out.”

SRI B. BHIMA RAO :—“ Now that a request has been made that the abstract may be read out, it is better to have it read out.”

DEPUTY CHAIRMAN :—“ The Secretary will now read the prayer in the petition.

“ The Secretary to the Council then read the prayer contained in the petition. ”

DEPUTY CHAIRMAN :—“ Mr. Jagannatham has got some amendments to clause 2; he may move them.”

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SRI H. M. JAGANNATHAM :—“ Do you allow a general debate on this, Sir? ”

DEPUTY CHAIRMAN :—“ In the second reading, you may discuss the matter contained in the concerned clause.”

JANAB ABDUL LATIF FAROOKHI :—“ On a point of order, Sir; we have not yet passed the first reading stage. Are we not to discuss the question generally now? The Bill has only been moved now, and it is open to the Members either to oppose it or to express their views thereon. I think amendments should be taken up only afterwards, in the second reading stage.”

DEPUTY CHAIRMAN :—“ The first reading is over; let us now take up the Bill clause by clause.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ What has happened is this: we have been going on with the consideration of a likely point of order that might be raised; that was the question we were discussing and I was not going into the merits of the question at all. The next thing was a discussion of the merits of the Bill. I submit for your consideration that what happened was that it was suggested that an issue might later on be raised as a point of order, but I myself refrained from doing so.”

DEPUTY CHAIRMAN :—“ I am sorry; after the point of order was raised, I definitely put the question that the first reading be passed. The House agreed to it. I am sorry the Members did not follow me then. Now the Bill will be taken up for consideration clause by clause.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ I am sorry, Sir.”

* SRI H. M. JAGANNATHAM :—“ I move, Sir, the amendment standing in my name, viz.—

‘ that the proposed sub-section (3) to section 116 be deleted.’

I submit it is not right that the Government should encroach on the Corporation's slender finances while it has got to incur such a huge amount of expenditure every year. The Corporation throughout the 365 days of the year has been begging the Government either for a free grant or for a half-free grant or for a loan with interest or a loan without interest. Whatever may be the tax that is proposed to be collected from the tramway company, I think it should be left entirely to be spent by the Corporation and the Government should not go in for shares with the Corporation. Sir, you, as the ex-Chairman of the Taxation and Finance Committee of the Corporation, know the financial difficulties of the Corporation. I request the Members to vote for the deletion of this sub-section which is proposed to be introduced by clause 2 of the Bill. With these few words, I move the amendment. (The Hon. Sri B. Gopala Reddi : ‘ Do you agree to raise the amount to Rs. 900? ’) I shall come to it later on.”

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* SRI R. SURYANARAYANA RAO :—" Sir, as I have also given notice of an amendment of a similar nature, I rise to second Mr. Jagannatham's amendment. The point has been discussed at considerable length in connexion with the point raised by Dr. Lakshmanaswami Mudaliyar. The Hon. Minister for Local Self-Government in introducing the Bill made two points with which every one of us here will agree. He said that the financial position of the Corporation is such that some additional revenues must be found for it. We all agree. Again, he said that this legislation is being undertaken at the instance of the Corporation. It is just possible that the Corporation has requested the Government to enable it to increase its revenues, its financial resources, and it is quite possible that it has suggested this source; but I am sure that the Corporation did not bargain that while it should be allowed to increase the tax on tram-cars, it should pay four-ninths of it to the State. All that the Corporation might have asked and legitimately asked—and I think it was perfectly justified in doing so—is that it should be enabled to increase its revenue from this particular source. What I say is : by all means assist the Corporation, by increasing the maximum. To what extent the Corporation should be enabled to increase the tax is quite a different matter; on that point I think the Hon. Minister for Finance wanted a definite assurance from Mr. Jagannatham. That there is need to increase the revenues of the Corporation is agreed; and the Corporation is quite justified in asking the Government to come to its assistance. At the same time, it never wanted this particular provision to be put into the Bill. I have been closely following in the papers the proceedings of the Corporation of Madras in regard to this matter; and I am sure the Corporation never bargained that it should collect the tax and pay a portion of it to the Government. No respectable self-governing institution is likely to come forward and say, ' I shall collect the tax for you; if you will please agree, I shall give you four-ninths of it '. The Corporation is after all a body which is practically as big as this Government so far as the City is concerned; no doubt the Corporation derives its powers from this Legislature; but I am sure it would never have agreed to this condition. The object of this Bill is, for the reasons adduced by Dr. Lakshmanaswami Mudaliyar, to give power to the Corporation to increase the upward limit of the tax on tram-cars; please do not ask the Corporation to go into shares with you in regard to the revenue so derived. Later on, I will show that even this is not going to assist the Corporation much; I shall give figures to show that for all the trouble that the Corporation is to take, it will get only about Rs. 10,000 more. Anyway, from a constitutional point of view, I feel it is wrong that such a provision should go into this enactment. Secondly, as I have already said, the Corporation should not be asked to collect the tax and pay a portion of it to Government. If the Government want to levy a tax in order to improve their own financial resources, let them undertake legislation for taxing vehicles, mechanically propelled or not, etc., according to the Constitution. I should therefore like this particular clause to be

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omitted, to avoid not only certain constitutional complications which may arise, but also from the point of view that if you want to enable the Corporation to augment its revenues, in all fairness, you must give it the power to increase the tax without going in for shares. As the hon. Dr. Lakshmanaswami Mudaliyar said, it is on its own volition that the Corporation should increase the tax. You fix Rs. 900 as the limit and allow the Corporation to fix it to-morrow at Rs. 300 or Rs. 200, i.e., to increase the present tax by Rs. 100 or Rs. 200. But out of the increase, why do you want four-ninths? That will mean that you are indirectly compelling the Corporation to increase the tax as much as possible, so that its share of five-ninths may become as big as possible."

THE HON. SRI K. MADHAVA MENON :—" But the present limit is only Rs. 100."

* SRI R. SURYANARAYANA RAO :—" But you are not giving any power to the Corporation to fix the tax within the limit you now prescribe. I feel, Sir, that this is a very reasonable amendment which the Government should be pleased to accept. In moving this amendment, the intention is not to take away any power which the Corporation at present possesses, to fix the tax on tram-cars."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, in supporting this amendment, I should like to bring to the notice of this House certain fundamental principles that are involved, which I think we ought to take note of. I have already said that this measure may be copied with regard to other municipalities also. So far as I can see, it is a measure that is likely to give rise to a great deal of controversy as to whether the Government have got the power or not to make the Corporation collect and pay a part of the tax to them. I deliberately did not want to raise a point of order at that stage, but I do say there is some principle involved in this. As I understand it, all taxation measures and resolutions passed by the Corporation are subject to the approval of the Government; and I do not think the Corporation itself can increase the outer limit of the tax without the concurrence of the Government. If therefore this Bill is passed and the Corporation says to-morrow ' well, we can take advantage of this measure for increasing the present tax; so, let it be Rs. 300 but not Rs. 900,' the Government will not be in a position to give that unbiased consideration to such a resolution as they are expected to give in dealing with it. Interested parties as they themselves will be,—I do not think I am taking any extreme view whatever—I suggest the Government may not be in a position to give that dispassionate consideration which they ought to give, in regard to resolutions passed by the Corporation Council. That is another reason why I feel that a measure of this description is not in the best interests of local self-government. The taxation measure itself will, as pointed out by my friend, Mr. Suryanarayana Rao, bring in very little of additional finance to the Government; it would be in fact nothing, when considered in relation to

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the obviously very large issues—which I have not exaggerated—which may arise and which I suggest this House should take note of. On these grounds, Sir, I support the amendment to delete this particular sub-section.”

SRI B. NARAYANASWAMI NAYUDU :—“ I want to say a few words with regard to this amendment. The real question to my mind is whether you can delegate the power to tax to somebody else. With whom does it rest now? Does it rest with the local body, or with the State Government or with the India Government? This Bill really wants the Corporation to levy a tax and transmit the proceed, or a portion of it, to the State Government. Does this Government have the power to ask the Corporation to levy the tax on their behalf and pass it on to them? That is the real point raised by Dr. Lakshmanaswami Mudaliyar and no answer has been forthcoming. Under what authority do you want the municipal corporation to increase the tax? The Corporation derives its power to levy the tax under section 98 of the City Municipal Act. You want now, by this Bill, the Corporation to levy the tax not only for itself but for the State Government also. I ask : what right has the Corporation to collect the tax and pass it on to the State Government? Where is the section in the Act which says that the Corporation Council may levy a tax and pay a part of the proceeds to the Government of Madras? It can no doubt levy a tax for its own purposes; it has the authority to do so under section 98 of the City Municipal Act. And who passes the taxation measure in this respect? It is the Corporation Council, taking advantage of the local self-governing power given to it under the City Municipal Act. So, it is the Corporation Council that levies the tax and not the Government. The Government can simply enable the Corporation to levy the tax through a legislation passed by this Legislature. But here you want the Corporation of Madras to suggest a method to increase its revenues, you say you will pass the measure, but at the same time, you want that a part of the proceeds should go to the State Government. How can that be done under Section 98, as it is the Council that has to levy the tax for any purpose? According to section 98 of the City Municipal Act, the power is given to the Council to levy the tax and if you go to section 116, it says—

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‘ If the council by a resolution determines that a tax on carriages and animals shall be levied . . . ’

Therefore, it is the Corporation that is given the power to levy the taxes and that too only for the purposes specified. Now, can you ask the Council by a resolution to determine a tax on carriages and animals and ask them to give the proceeds thereof to you? Is the Council of the Corporation of Madras to be the taxing collecting authority for the State revenues? How can that be? On the other hand, taxation powers are given to us under the Constitution Act and you can levy a tax, as my hon. Friend, Dr. Lakshmanaswami Mudaliyar has pointed out. What you are now proposing

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to do is, to ask the Corporation of Madras to levy a tax as a statutory authority and to divert the proceeds thereof to the State revenues. Who is the authority to determine the tax? Is it the Corporation Council? This Council and the Assembly are the bodies entitled to pass Bills or raise the tax. Now, you are trying to take away the power of the Assembly and the Council to raise the tax and putting it on the Council of the Corporation by bringing in this amendment. It is not merely a question of a matter of order, but the real question is, whether the local Legislature is competent to request the local administrations or municipal councils to do it for them. Probably, they themselves feel they are fed up because people will worry them and they could not pass a law here and therefore they request the local bodies to do it with regard to raising the maxima or minima, so that they could pass a resolution with 20 or 25 members according to party requirements. But, I ask, where is this power given? They cannot do so without the sanction of the Legislature. Can you ask the City Municipal Corporation or any other local body to levy a tax for you and ask them to pass on a portion of the tax to you? I say it infringes the very principle of taxation and therefore it must be deleted. Then again, the question of transmission of a certain proportion of the tax to the provincial treasury is certainly beyond the jurisdiction of the municipal council. In the first place, they cannot levy a tax for the provincial Government, nor can they remit a portion of that to the Government. It is only the Assembly or the Council that can levy a tax. I submit therefore, both on the question of point of order and on the merits of it, this is an indirect way of taxation. They are many subterfuges this Government are seeking to make and this is another subterfuge in order to get money. They do not want to ask the Council or the Assembly to raise the taxation. I want to know who has got that authority? Is it the Assembly's vote or the vote of the Council of the Corporation of Madras, or is it the local bodies vote or the Council's vote that should decide it? How can you go and ask the Corporation Council to raise the tax for you? And, how can you authorize it and how can you ask the Corporation to transmit a portion of the proceeds to you? I have never heard of, what we call, local boards raising a tax and giving it to the State Government."

* MRS. M. HENSMAN :—"Deputy Chairman, Sir, I do not wish to take up the time of the House by repeating what has been said by other hon. Members. But I would like to draw the attention of the House to one or two sections of the City Municipal Act. Now, section 40 deals with the powers of the Provincial Government, which include, power to call for records, power to cause inspection to be made, or the taking of action by the person who is to take action, submission of copies of proceedings, etc., but there is no provision in that section to give powers to the State Government to have anything to do with increasing taxation. On the other hand, when it comes to section 98-A (2), we find—

"When the council shall have determined to levy any tax or duty for the first time or at a new rate, the commissioner shall forthwith publish a notice in the manner laid down specifying the date . . ."

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Now, it is the Corporation that has to levy a new tax or a tax at a new rate, but there is no provision here for the Provincial Government to certify or announce a new tax or a new rate. On the other hand, it is the Commissioner who publishes the notice and it is he who specifies the date, etc., under section 98-A of the Act.

“ Then again, Sir, coming to the question of taxes referred to in section 116, I fail to see how the proposed amendment can form sub-section (3) of section 116. For instance sub-sections (1) and (2) of section 116 say—

‘ (1) If the council by a resolution determines that a tax on carriages and animals shall be levied, the commissioner shall levy the said tax half-yearly on carriages and animals kept within the city which are of the kinds specified in Part III of Schedule IV.

(2) The rates of the tax shall be determined by the council, provided always that they shall not exceed the maximum laid down in Part III of Schedule IV.’

According to the schedule that maximum for every tramcar is Rs. 50 for every half-year. The schedule gives the maximum taxes for other kinds of vehicles, bulls, elephants, camels, bicycles, tri-cycles, etc., and for everything the maximum rate is given there”

THE HON. SRI B. GOPALA REDDI :—“ What about perambulators? ”

MRS. M. HENSMAN :—“ Nothing is mentioned for go-carts or perambulators. I think that has not been put down and so we need not have to pay anything for that. It must have been due to women's influence that this exemption was made. Now, my point is, according to sub-section (2) of section 116, the taxes shall be determined by the Council, provided they shall not exceed the maximum. So, I do not see how, as it is proposed in the other amendment, you can change Rs. 100 to Rs. 900 at the behest of anybody, not even the Council itself. If sub-section (2) of section 116 is changed by an order of the Government, then of course something might be done, but so long as these two sub-sections (1) and (2) of section 116 stand as they are, I think this proposed sub-section (3) cannot be added on to the section, since it is a contradiction in terms. I humbly submit, from my rather inadequate knowledge of law, but from my wider knowledge of commonsense that I do not see how the proposed sub-section (3) can depend upon sub-sections (1) and (2).

“ In conclusion, I wish to say, that in any case, the Bill as passed by the Assembly, puts no date to any of the clauses. Now, Sir, if the House wishes to refer this Bill to the Assembly and if the Assembly chooses to leave it without a date—for a precedent we have the Betting Tax Bill where no date has been put on the Bill that was passed by both the Houses of the Legislature, and perhaps the Hon. Minister in charge has reserved the power to fix the date of action—the Assembly may refer it back to the City Council and ask them to alter section 116 (1) and (2) and then indeed this clause to raise the tax from Rs. 100 to Rs. 900 may come in. But, so far as the section stands as it is, unless such a provision is made, I do not see how we can put in this new sub-section (3) that is proposed.

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"Then again, Sir, hon. Members who have spoken, particularly, Mr. Suryanarayana Rao, referred to four-fifths of the tax being paid to the State Government, whereas, I think in the Bill it is stated four-ninths. Here, I would like to draw attention to what has been said by much abler people than I on the subject. I submit that the powers of the State Government as put down in Section 40 of the City Municipal Act, do not include powers relating to raising the tax or collecting the tax. Now, the Hon. Minister in charge wants four-ninths of the tax on tramcars to be paid to the State Government and then he supplements it by raising the tax from Rs. 100 to Rs. 900. I submit that it is the tram passenger who has to pay all this increase. I think the Hon. Minister made mention that this Government has allowed the tram fares to be increased. By how much? By half-anna. There is no route in this City on which the increase is more than half-an-anna from end to end both for new tramcars and for the tramcars that are now in motion. I would ask the Hon. Minister seriously to consider, especially section 116 (1) and (2) of the Act and the Bill as proposed, and refer the Bill back to the Assembly for necessary action."

* DR. P. S. SRINIVASAN :—"Deputy Chairman, Sir, with regard to the law in the matter, whether it would be right for this Government to levy this tax or ask the Corporation to levy this tax and take a portion of the tax, I leave it to the Hon. Minister to reply. But, with regard to the statement made by my hon. Friend, Mr. Suryanarayana Rao that the Corporation will get only Rs. 10,000. I think he has to be corrected. According to the petition submitted by the Electric Tramway Company they say, they have paid to the Corporation Rs. 21,000 per year. That is for 105 tramcars that are running on the line. At that rate, they will be getting, for 105 cars, about Rs. 50,000 and it is not a small sum. It will give an increased income to the Corporation which will go a long way in the matter of improving its revenue."

DEPUTY CHAIRMAN :—"Is the hon. Member, Mr. Jagannatham, moving his other two amendments also?"

SRI H. M. JAGANNATHAM :—"As there are only five more minutes before luncheon hour, I would like to move them after lunch, Sir."

SRI B. NARAYANASWAMI NAYUDU :—"I think if all the amendments are moved, it will facilitate the Hon. Minister to give a reply to all of them."

The House then rose for lunch.

(After lunch—2-30 p.m.)

* SRI H. M. JAGANNATHAM :—"Mr. Deputy Chairman, Sir, I beg to move that—

'In the amendment proposed to rule 10 of Schedule IV for the proposed figures "900" substitute the figures "300".'

My reasons for this are as follows."

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THE HON. SRI K. MADHAVA MENON :—" There is considerable love for the Corporation in the House." (Laughter.)

* SRI H. M. JAGANNATHAM :—" Sir, the increased tax on tramcars from Rs. 100 to Rs. 900 is too much. I know the Government have made up their mind about this enhancement and so whatever arguments I might put forth on this occasion will be of little avail. But still from the point of view of the common man, from the point of view of the ordinary tram-user, I will be failing in my duty if I do not give expression to the vital considerations that have to be borne in mind while passing this amendment.

" Sir, this is a case of indirect taxation on the poor. The burden of this heavy tax is going to be shifted on to the shoulders of the poor wage-earners in the City and not on the rich who have their own motor cars. It is all very well to say, ' we are not taxing people, but only the company. We have recently permitted them to raise the fare from nine pies to one anna per mile stage. Why not they be asked to pay? ' But is that the real proposition? The tramway company, as they have clearly shown in their balance sheet, have been working at a loss for the last two years. In 1948 the loss was Rs. 1½ lakhs and in 1949, Re. 1 lakh despite all the increase of population in the City. What has been the result of the increased fares? Unless you get more passengers, or at least unless you get the same passenger traffic, which, they now say, has gone down by 21,800 per day, you cannot make any additional income. The company estimated to gain by the increase nearly half a lakh of rupees every month, but in the first month in which the new fares were introduced, they got only Rs. 25,000. So, there is no denying that there has been considerable drop in the passenger traffic and these passengers must have gone over to the State Transport buses. So the little additional income the company was able to get is more than off-set by the higher charges for electricity demanded by the Government and the proposed enhancement of the tax on tramcars which this amendment seeks to levy.

" Sir, while our great national leaders in the early years of their coming into power were very enthusiastic about nationalization of industries, they are now convinced that private enterprise has a very important place in the national economy. Indeed the Government of India have given a number of tax reliefs to private enterprises in their last budget. If I remember right, they have also promised much more reliefs in future.

" Now, Sir, here is a vital industry—Transport Services—operated by a private company which has been working at a heavy loss for the last two years. They have not been able to pay any bonus to the employees in spite of the strikes. Either the Government should take over the service, nationalize it also like the bus transport service, or, Government should allow the company to function with benefit to the public, satisfaction to their staff and profit to the shareholders. There can be no other choice before the Government.

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“ Sir, I am quite clear by this amendment, Government will be killing the goose that lays the golden egg. The company will naturally, I think, reduce the number of cars they put on the road, which will mean reduction of staff, unemployment to workmen and more and more inconvenience to the travelling public. Already both the Government Transport and the Tramways are not able to cope with the traffic during the peak hours, and many employees of firms in the City are forced to walk all the distance to their home late in the night. Do Government want to make the situation worse by forcing the company to reduce the number of tramcars? Do they wish to invite labour trouble? There is no doubt that the company will be forced to retrench the staff. Therefore, Sir, I would ask Government even at this late hour to drop their proposal or limit the tax to Rs. 300.”

SRI R. SURYANARAYANA RAO :—“ Sir, I beg to move my amendment which seeks to fix the maximum of Rs. 400 per car as the tax. My amendment runs thus—

‘ In the amendment proposed to rule 10 of Schedule IV, for the proposed figures “ 900 ” substitute the figures “ 400 ” .’

Sir, in moving my amendment, I would like Government to tell us whether they have examined the balance-sheet and profit and loss account of the Tramway Company and satisfied themselves that it can bear tax to the extent of Rs. 900 they propose. Sir, from the figures which have been furnished by the Tramway Company, which I am sure Government cannot challenge, I find the company has been running at a loss. Is it the intention of Government that they should make the company run on greater losses and get into liquidation? Is it fair to ask a losing concern to pay more tax so that its losses may increase? That is one point I wish to make.

“ The second point is, what will be the next step of the Tramway Company if this tax is imposed. It will seek to increase the fares. And who is to pay this increased fare? It is the citizen. Sir, the citizens of this City and this province have been made to bear all kinds of burdens. My friend, the Hon. Finance Minister is keen on finding out any commodity which is available for putting a sales tax. (Laughter.) Now, next to food and clothing, transport is the most important consideration for those living in cities like the City of Madras. By this measure, the tramway fares will be increased, or the tramway company would be compelled to withdraw some of their coaches from the line, as they would not be able to pay the enhanced tax. So, ultimately it is the citizen that would be hit by this measure. Evidently, it looks as though the Hon. Finance Minister wants every citizen to be at his mercy (laughter) because he wants to increase the income of the Government Bus transport. Instead of providing more facilities to citizens by making the transport as cheap as possible—now that the city is spreading itself out—and help it to expand and enable the people to live in distant parts and from there go to their place of employment easily and quickly. Government are now indirectly compelling the Tramway Company to increase their fares, and make those who make use of the tramway to pay more fares, or compelling the company to withdraw

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their tramcars from the line, and thereby put the citizens to great hardship. Either of these results will take place, if the increased tax is levied.

"Again, Sir, increased fare means decreased returns to the company, which, in its wake would lead to withdrawal of cars from the line, and that would lead to retrenchment, unemployment and labour trouble. Already the tramway company labour is restive; because they feel the amenities they are entitled to are not provided for them. So the ultimate result will be the unfortunate and unnecessary labour trouble in the City of Madras.

2-45
P.M. "My friend, Dr. Srinivasan, this morning corrected me, and I accept his correction and I am thankful to him for it, regarding the revenue to Corporation from this tax. At present the revenue at the existing rate of tax is Rs. 21,000 to the Corporation at the rate of Rs. 100 per car for 105 cars. The revenue from the new tax proposed, at the rate of Rs. 900 per car, amounts to Rs. 1,89,000; and four-fifths of it, Government will take, that is, Rs. 84,000, and the Corporation will take the balance. It is true that the finances of the Corporation will be greatly augmented. But my amendment practically helps the Corporation to retain, by having the tax at Rs. 400 per car, as much as they will be getting if Government amendment is accepted. In the interests of the citizens of the City who need transport very badly, I feel it is wrong to raise the rate of tax on tramcar from Rs. 100 to Rs. 900 all of a sudden. The increase is as much as nine times. If the facts stated by the Tramway Company are correct and I hope they are correct, the company is working at a loss. I would like the Government to consider whether it is fair to impose this additional burden on the company and whether we should not accede to the prayer contained in its petition to stop this increase for the present and, when the times are propitious, impose such additional taxation as might be necessary.

"My hon. Friend the Minister for Law said this morning that as soon as this Bill was passed into law, the Corporation would be required to levy a tax of Rs. 900 per tramcar. It is not so. Rs. 900 is only the maximum. If the Corporation Councillors feel that they need not impose Rs. 900, it is open to them to levy the tax at a reduced rate, or retain the existing rate of tax. But, as the Government are anxious to get a share of the revenue, perhaps forces will be at work to influence the decision of the Corporation. Let us leave the Corporation to itself, fix a lower maximum and allow it to exercise its choice within that maximum. I do not think it is fair to increase the tax to the extent to which it is proposed to do. I do not know on what basis the Government have arrived at this rate of Rs. 900. Perhaps they must be thinking that the Tramway Company is making a huge profit—hidden profit of which we are not aware from the published accounts. Knowing that the company is running at a loss and will not be able to bear the additional burden in spite of the increase in fares, it is not fair to raise the tax unless the Government have made up their mind to permit the company to increase the fares further. With these words, I move my amendment to substitute Rs. 400 in the place of the proposed Rs. 900."

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THE HON. SRI B. GOPALA REDDI :—" Rs. 400 is worked out on what basis? "

* SRI R. SURYANARAYANA RAO :—" On no basis. As the accounts of the Tramway Company show that it cannot bear any additional burden, we would like the proposed increase to be dropped altogether. But if the Government's intention is to assist the Corporation to increase its revenue, perhaps the Corporation will levy the tax in such a manner as to indirectly compel the Tramway Company to hand over the concern to it. The Corporation is very anxious to take over the tramways. Perhaps this is another method of compelling the Tramway Company to hand over its assets and liabilities to the Corporation. I quite agree that there is no case for increasing the tax. But if the Government want to increase the tax at all in view of the increase in fares, the increased revenue must go to the Corporation. They have got the power to say to what extent the Corporation can increase the tax when the proposal comes up before them. I believe that any increase in tax by the Corporation has to secure the permission of the Government. Let the Government fix a lower maximum of Rs. 400 and allow the Corporation to so adjust the rate of tax as to conform to the ability of the Tramway Company to bear the burden."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

* THE HON. SRI K. MADHAVA MENON :—" I appreciate the suggestion of the hon. Sri B. Narayanaswami Nayudu that the amendments should not have been clubbed together. The amendment proposed by Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to delete the proposed sub-section (3) to section 116 seeks to give the entire benefit of the increased tax to the Corporation. I quite understand their sympathy for the Corporation. The second amendment is just the reverse. In effect it says that the Corporation does not want the money, that the Tramway Company is in financial difficulties and that the tax need not be raised. I do not think that even the Tramway Company can put its case so well as Mr. Jagannatham did. He referred to the difficulties of the Tramway Company, how its balance sheet showed that it was working at a loss, the possibility of retrenchment of labour consequent on increasing the tax and so on. Perhaps Mr. Narayanaswami Nayudu anticipated the funny position that has arisen now when he suggested that these contradictory amendments need not be clubbed together.

" Mr. R. Suryanarayana Rao was very vehement about the Government taking a share of the revenue from the Corporation. I quite appreciate his plea on behalf of the Corporation. Every one of us wants to make the City beautiful. Dr. Lakshmanaswami Mudaliyar thinks that we are making the City horrible.

" Much sympathy was shown for the Tramway Company. I do not know what profit it is making. Except the petition that has been put before the House, I have no details of its income and expenditure.

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" Mr. Suryanarayana Rao asked what the sanctity was that was attached to this figure of 900. For every transport bus we are levying a tax of Rs. 30 per seat per quarter or Rs. 120 per seat per year. The seating capacity of the smallest tram-car is about sixty. Very often it carries a considerably larger number of passengers and let us proceed even ignoring this overloading. On the basis of the tax paid by a transport bus, a sixty-seater tram-car will have to pay a tax of Rs. 7,200 per year. We propose to fix the maximum only at Rs. 900 per half-year. In fact, the Corporation passed a resolution seeking permission to increase the maximum to Rs. 3,000, perhaps with a full knowledge of the condition of the Tramway Company and the other taxes it has to pay. Much sympathy was exhibited by Mr. Jagannatham for the poor traveller who has no motor-car and who has to go about walking or travel in a tram-car. It is out of consideration for the poor traveller that we have fixed the maximum at Rs. 900 and not at Rs. 3,000 as was suggested by the Corporation.

" The amendment of Mr. Jagannatham and Mr. Suryanarayana Rao to reduce the maximum to Rs. 300 and Rs. 400 respectively does not help anybody in any way except perhaps the Tramway Company. I am not in a position to say whether the Company is in need of any help or not.

" Sri Narayanaswami Nayudu and Dr. Lakshmanaswami Mudaliyar doubted the propriety of asking the Corporation to pay a part of the revenue to the Government. I do not want to be dogmatic, as the procedure may be capable of different interpretations. Under the City Municipal Act, the Government have power to impose on the Corporation duties other than those imposed by the Act. Under that power, the Government can ask the Corporation to collect the tax and pay a portion of it to them. The procedure can be defended on another ground also. Just as the City Municipal Act is a power given by the Legislature to the Corporation, the Legislature will be giving power to the Corporation to pay a portion of the tax to the Government by passing this Bill. That is my submission."

THE HON. SRI B. GOPALA REDDI :—" Sir, I do not want to go into the constitutional or legal aspect of the question whether it is desirable that the Government should authorize the Corporation to levy tax at an enhanced rate and ask for a portion of the revenue to the State exchequer. I am viewing it only from the propriety point of view. I do not think there is anything improper about it. It is a question of internal adjustment between the Government and the Corporation. When we can make every petty dealer to be our Sales Tax Collector, there is nothing wrong in our authorizing the Corporation to levy a tax at their discretion subject to a specified maximum without any kind of compulsion and asking it to contribute a portion of the revenue to the State exchequer. Perhaps there may not be many precedents for it in this country or in other countries. While the Government collect the tax and give a share to the Corporation, no objection is raised. But when the Corporation collects a tax and the Government ask for a share,

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objections are raised on the ground of law, constitution and propriety. The Government collect the Entertainments Tax and give about ninety per cent, to the Corporation, municipal council or other local body concerned. Likewise, the Government collect the Motor Vehicles Tax and give about Rs. 90 lakhs to the district boards and municipalities as toll compensation out of the revenue derived from that tax. A stamp duty of 5 per cent in the City and municipal areas and 4 per cent in other areas is levied. The duty is collected by the Registration Department of the Government and out of it over Rs. 2 crores is paid to the local bodies every year. Thus the Government collect the Entertainments Tax, Motor Vehicles Tax and stamp duty on transfer of property and give a portion of it to the Corporation and other local bodies. When that is possible, I do not see why the reverse of it cannot be possible. It need not necessarily be one-way traffic. The Corporation can collect certain taxes and pay a portion of it to the Government.

“ Sri R. Suryanarayana Rao pertinently asked whether it was fair to enhance the tax to Rs. 900. We have not enhanced the tax; we are only giving power to the Corporation to enhance it. The provision made is only permissive and not binding. After considering the financial position of the Tramway Company and all other relevant matters, it is open to the Corporation to enhance the tax suitably subject to the maximum of Rs. 900 or not to enhance it at all.

“ Apart from that, Sir, he asked whether it was desirable that 3 p.m. the Tramway Company should be asked to pay 900 per cent more than what they are paying to-day. But, Sir, take the case of a poor man who owns a bus or two. Without much of a capital, he buys the bus, and puts it on the road. He has then to pay Rs. 3,600 a year by way of motor vehicle taxation. He has to meet the petrol charges and tyre charges and he has got to pay for the conductor and the driver and besides these, he has got to meet some expenses by way of repairs and renewals, because he cannot maintain a workshop of his own. And with all these expenses, he has got to pay a tax of Rs. 3,600 per year, while the Tramway Company, because it is an English Corporation working here for a very long time, pays only a tax of Rs. 200 a year per tram-car with a standing capacity of 40 and a seating capacity of 35 passengers. Is it fair to ask the poor bus-owner—for he is indeed poor when compared to the Tramway Company—to pay Rs. 3,600 per year as motor vehicle taxation, while the big Tramway Company carrying about 75 passengers in a tram-car pays only Rs. 200 to the Corporation? Sir, I cannot understand the justice, the propriety and the ethics of this preferential treatment. Yet my hon. Friend Mr. R. Suryanarayana Rao pleads for that English company and says that it will go into voluntary liquidation if the tax is raised. Sir, I am pleading for the other man, the bus-owner, because I want that there should be some sense of justice and some sense of proportion between the tax paid by him and the tax paid by the Tramway Company. There should be some sense of equity in this matter and that is why I want to enhance the tax on the Tramway Company and bring it on a par with the bus tax. Therefore the Corporation of Madras has rightly

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asked us that they should be permitted to enhance that tax from Rs. 100 to Rs. 3,000. We had carefully gone into the matter and we had come to the conclusion that it might be raised to Rs. 900 at the most. Now the entire motor vehicles tax is taken away by the State Government, though the roads in the City of Madras are maintained by the Corporation. The Corporation gets no share from the motor vehicles tax. We are taking away the entire tax but we are only paying a small amount by way of toll compensation on some basis which is not commensurate with the use to which the Corporation roads are put to, by the motor users. Therefore, there is nothing fundamentally wrong in the Corporation's request to enhance the tax on the Tramway Company and there is also nothing wrong on the part of the Government asking that 4/9ths of the proceeds of that tax should go to the State Government. Now we have been getting a portion of the licence fees collected by the Panchayats and municipalities. Similarly we must get a portion of this tax from the Corporation.

"Sir, there was also the other point raised about the enhancement of the tram-fares. The Tramway Company asked us to permit them to enhance the rates of fares and the Government agreed to it. The Registrar of Joint Stock Companies went into the question and computed that the Tramway Company would get about Rs. 6 lakhs per year by means of this enhanced fare. The company's deficit during the last two years was not much. I think it was about Rs. 80,000 in the year before last and one lakh of rupees during last year. But they have been earning huge profits in the previous years and declaring huge dividends to their shareholders in England all those years. Nobody has said anything about it and nobody has pleaded that they should pay an enhanced tax to the Corporation, even though the finances of the Corporation are in no way better. The shareholders of the Tramway Company who are in England had been getting huge dividends all these years and that was not also mentioned by my hon. Friend Mr. H. M. Jagannatham, who pleaded so very forcibly for the Tramway Company."

SRI H. M. JAGANNATHAM :—"During the last 24 years, they have paid dividend only for 12 years, Sir."

THE HON. SRI B. GOPALA REDDI :—"But, what is the rate of dividend they had declared during the years in which dividends were paid to the shareholders? (An hon. Member: 'Cent per cent!') Unless they had made huge profits, they would not have paid such huge dividends to their shareholders. But they never paid any enhanced tax to the Corporation all those years. But because during the last two years, the company has sustained some loss, Hon. Members are pleading very eloquently for the company and are threatening that it would go into liquidation, that the public would be put to considerable suffering and all that. I submit, Sir, that they are simply shedding crocodile tears, when they plead on behalf of the Company."

SRI B. NARAYANASWAMI NAYUDU :—"Sir, there was no tears till now in this House from hon. Members, still less crocodile tears!"

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JANAB K. T. M. AHMED IBRAHIM :—“ When the Government allowed the Tramway Company to increase its rate of fares, did not the Government go into all these matters? Why did the Government give permission to enhance the fares? ”

SRI R. SURYANARAYANA RAO :—“ Are the Government going to permit any further increase, if the Tramway Company asks for it again? ”

THE HON. SRI B. GOPALA REDDI :—“ Sir, the Tramway Company said that by this enhancement of 25 per cent, i.e., from 9 pies to 12 pies, it would get about Rs. 6 lakhs of additional income per annum. We thought that from this increased income, the Corporation of Madras and also the Government might get a share and that is why we permitted the enhancement of fares. But just now it comes and says that its expectations had not proved correct, that there had been a deminution in the number of passengers, that the travelling public had taken to other forms of transport such as rickshaws and buses and hence pleads that this tax should not be enhanced. Sir, that is a matter which the Corporation of Madras would go into and I am sure, the Corporation would certainly consider the financial position of the Tramway Company and also the company's income by way of increased fares, and impose only such tax as would be fair and equitable. What we now say is, we shall permit the Corporation to increase the tax up to a maximum limit of Rs. 900. It may be Rs. 200 or Rs. 300 or Rs. 400. That is a matter that would be left to the discretion of the Corporation and we do not compel the Corporation that it should levy the maximum tax of Rs. 900. We have simply fixed the maximum and we would leave it to the Corporation to do as it deems fit and proper. Therefore, Sir, there is nothing fundamentally wrong in our present Amending Bill. This is only a participation in the allocation of revenues. We have been amending our taxation measures from time to time and we have been sharing the taxes with the local bodies and the Corporation of Madras and this is one of such measures, in which we have asked the Madras Corporation to share the proceeds from this tax between the Corporation and the State Government in the ratio of 4/9 and 5/9, because we want to place this tax on a par with the motor vehicle taxation. Otherwise it will be unfair for the motor-owners to be paying their tax entirely to the Government and nothing to the Corporation at all. The Tramway Company do not now pay anything to the Government, but pays its tax only to the Corporation. So the State Government has a right to come into the picture and whatever is given to the State, will again come back to the Corporation in a different shape. In any case, Sir, the Corporation will not be allowed to be starved and the Government will certainly come to its aid, whenever it is in need of finance. As a matter of fact, Sir, the Local Finance Enquiry Committee has been purposely set up to enquire and make suggestions to augment the sources of revenue for local bodies and when that Committee came here from Simla, I myself gave evidence as to how best the finances of local bodies could be augmented and placed on a sound basis. We are awaiting the report of that Committee and if

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they suggest that more finances should be made available to the local bodies, then certainly we shall think of giving even the 10 per cent of the Entertainment tax that we are now getting from the cinema theatres. Now we are getting about Rs. 5 lakhs from cinema houses. Perhaps from one point of view, it is legitimately a municipal tax and must be paid to the municipality. Therefore it is up to the Government to pay back these taxes to the local bodies and it is certainly obligatory on the part of the Government to see that the Corporation is not starved. It is not as though we want to strangle the Corporation or to take away its legitimate taxes. Therefore, Sir, there is nothing illegal or unconstitutional about this sharing of the tax between the Corporation and the State Government and I do not think that even if anybody would venture to go to the High Court to obtain a writ to declare this legislation *ultra vires*, he would succeed in such attempt, because we have no doubt about our constitutional position in this matter and we are confident that no such thing would happen. This is only a question of propriety. After all, Sir, propriety is always bilateral and not unilateral. When we help the Corporation to augment its finances, we also do want to get a share of its revenues in order to augment our own resources. So, there is nothing wrong in what we have done, Sir.

“ With these words, Sir, I commend the Bill for the acceptance of the House.”

* THE HON. SRI K. CHANDRAMOULI :—“ Mr. Deputy Chairman, Sir, after having heard the speech of my Hon. Colleague, the Finance Minister, I have very little to say by way of reply and I should like to place only one or two points before the House. My Hon. Colleague has answered most of the points raised by hon. Members opposite in the course of this debate. I do not propose to go into those points again. I should like to make one point clear before I proceed to the others.

“ The first point is that the Corporation passed a resolution on 3rd May 1949 asking the Government to permit it to enhance the tax on the Madras Electric Tramway Company at the rate of Rs. 6 for each seating accommodation and Rs. 3 for each standing accommodation. As all hon. Members know, there are about 105 tramcars now running in the City. Previously, when the Madras Corporation asked the Government to increase the tax, we went into the question and even on the statements furnished by the company itself, we found that it was actually working at a profit of Rs. 4 lakhs annually. According to the calculation of the Corporation, the company was making an average profit of Rs. 30,000 per mensem. At that time, we thought that such a high taxation as proposed by the Corporation was not justifiable and feasible and therefore we deferred the proposal. But now, when the Corporation has come up again with the present proposal for enhanced taxation, we find that even according to the audited balance-sheet of the company for the year ending 31st December 1949, the company has made a net profit of 800 pounds. Of course, the company has not paid any dividend for the last year and this year, but all the same, it has shown a net profit. So,

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hon. Members cannot argue that the company will go into liquidation if this tax is enhanced. Even according to its own statement, the company expects to get an additional revenue of about Rs. 6 lakhs per year on account of the increased rate of fares. But now only two months' figures have been placed before hon. Members by the company and even according to those two months' figures, we see that it has got a profit of Rs. 24,000 and Rs. 10,500 respectively during the last two months. Even at this rate, it is possible for the company to make a profit of nearly Rs. 2½ lakhs this year. It cannot therefore be argued that the company would incur a loss or that it would go into voluntary liquidation and all that. I cannot understand the plea put forward by hon. Members on behalf of the company and the threats they held out that the number of tramcars would be reduced or that there would be labour troubles or that the public would be put to much inconvenience, if the tax is increased. All these statements are simply exaggerated and only tend to create confusion in the minds of the public. Quite recently, the Directors of the company interviewed us and had a talk with us. They furnished us certain figures and from those figures we were very clear that the company is running on a profit and if we patiently wait for one full year, the company would certainly make enough profits to pay the tax and at the same time earn a decent margin of profit. From these two months' figures, we cannot conclude that it would make a loss and that all those harrowing pictures that hon. Members have sought to paint, would follow in their train.

"Sir, I have already made it clear, that the tax of Rs. 500 that is now proposed is the maximum that the Corporation can levy. The corporation has the discretion to reduce it, in accordance with the capacity of the Tramway Company to pay. It may levy Rs. 400 or Rs. 500 or even less. Its discretion has not in any way been interfered with. Therefore, Sir, we have not at all made any unreasonable or abnormal proposal in the Bill before us. My Hon. Colleague, the Finance Minister has made the point clear that there is nothing wrong in the Government's asking for a share in the proceeds of that tax. But still when hon. Members have pleaded so much on behalf of the Corporation, I can quite appreciate their anxiety that the financial position of the Corporation should not in any way be weakened. The Government are also of the same opinion and they do not stand on false prestige. I am therefore prepared on behalf of the Government to accept the amendment of my hon. Friend, Mr. Jagannatham and Mr. R. Suryanarayana Rao for the deletion of the proposed sub-section (3) to section 116. The Government would not object to the amendment, because hon. Members are so forcible in that respect. But under no circumstances would the Government accept the contention that the company would go into liquidation owing to this taxation. I therefore request hon. Members to withdraw all the other amendments, except the one I have just now referred to, namely the deletion of sub-section (3) of section 116, which the Government are prepared to accept, in accordance with the wishes of hon. Members of this House."

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3-15
p.m.

DEPUTY CHAIRMAN :—" The motion is—

' Delete the proposed sub-section (3) to section 116 '."

The amendment was put and carried.

DEPUTY CHAIRMAN :—" I now put the other two amendments of the hon. Members Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to the vote of the House."

THE HON. SRI K. CHANDRAMOULI :—" Sir, I would request the hon. Members Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to withdraw their amendments in view of the acceptance by the Government of their first amendment."

SRI H. M. JAGANNATHAM :—" I withdraw my amendment, Sir."

SRI R. SURYANARAYANA RAO :—" I also withdraw my amendment, Sir."

The amendments were, by leave of the House, withdrawn.

Clause 2, as amended, was put and carried.

Clause 1 was put and carried.

The preamble was put and carried.

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

*" that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

DEPUTY CHAIRMAN :—" The motion is—

*' that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

SRI B. NARAYANASWAMI NAYUDU :—" Sir, this is the first time that the Government have been pleased to accept an amendment from the Opposition. (Applause). I hope this will not be the last time. On a vital matter like taxation, I am glad that the Government have accepted this amendment. I hope hereafter there will be no question of prestige. When we feel that a certain thing is right, we must stand up and accept it. That alone is true democracy. I congratulate the Government on the bold step they have taken. We all owe this to Dr. Lakshmanaswami Mudaliyar who pointed this out. I myself did not notice it. I am very grateful to him for pointing out this."

DEPUTY CHAIRMAN :—" The motion is—

*' that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

The motion was carried.